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HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.No.4057 of 2006

Petitioner	:	M.P. Christian College of Eng. & Technology Through: Fr. Dr. Abraham Oommen S/o Shri Oommen Abraham, 52 years Executive Vice Chairman 18, Kailash Nagar, Industrial Estate Bhilai Distt. Durg.
	Versus	
Respondents	1.	State of Chhattisgarh through: The Secretary Higher & Technical Education Deptt. Mautralya Raipur
	2.	The Regional Director Central Regional Officer A.I.C.T.E. Tagore Hostel No.2, Shamla Hills Bhopal.
	3.	The Director Directorate of Tech. Education Byron Bazar Raipur.
	4.	Chhattisgarh Swami Vivekanand Technical University through: The Registrar North Park Avenue, Sector 8 Bhilai Distt. Durg.

(Writ Petition under Article 226/227 of the Constitution of India)

Single Bench: Hon'ble Justice Satish K. Agnihotri

Present : Shri S.K. Thomas and Shri Prafull Bharat, Advocate for the petitioner.
Shri P.K. Verma, Additional Advocate General with Smt. Anju Ahuja, Dy. Govt. Advocate for the State/ respondents.

ORDER

(Passed on 13th July, 2007)

Learned counsel for the petitioner submits that the petitioner/ educational institution is run by Christian Minority community under St. Thomas Malankara Orthodox Syien Church Mission Bhilai, Durg. The petitioner/engineering college has got recognition from respondent No.2 and affiliated to Chhattisgarh Swami Vivikanand Technical University, Durg.

2. Admittedly, the petitioner college is unaided college. Learned counsel for the petitioner further submits that the State Government is

interfering with admission of students by imposition of seat sharing quota, contrary to the decision of the Hon'ble Seven Judges Bench of the Supreme Court in **P.A. Inamdar and others Vs. State of Maharashtra and others (2005) 6 SCC 537**. Learned counsel for the petitioner relies on para 125 and 127 of the decision, which read as under:

> "125. As per our understanding, neither in the judgment of *Pai Foundation* nor in the Constitution Bench decision in *Kerala Education Bill* which was approved by *Pai Foundation* is there anything which would allow the State to regulate or control admissions in the unaided professional education institutions so as to compel them to give us a share of the available seats to the candidates chosen by the State, as if it was filling the seats available to be filled up at its discretion in such private institutions. This would amount to nationalization of seats which has been specifically disapproved in *Pai Foundation.* Such imposition of quota of State seats or enforcing reservation policy of the State on available seats in unaided professional institutions are acts constituting serious encroachment on the right and autonomy of private professional education institutions. Such appropriation of seats can also not he held to be a regulatory measure in the interest of the minority within the meaning of Article 30 (1) or a reasonable restriction within the meaning of Article 19 (6) of the Constitution. Merely because the resources of the State in

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providing professional education are limited, private educational institutions, which intend to provide better professional education, cannot be forced by the State to make admissions available on the basis of reservation policy to less meritorious candidates. Unaided institutions, as they are not deriving any aid from State funds, can have their own admissions if fair, transparent, non-exploitative and based on merit

127. Nowhere in *Pai Foundation* either in the majority or in the minority opinion, have we found any justification for imposition seat-sharing quota by the State on unaided private professional educational institutions and reservation policy of the State or State quota seats or management seats "

3. Shri P.K. Verma, Additional Advocate General with Smt. Anju Ahuja, Dy. Govt. Advocate submits that the petition is vague as it does not specify as to when and by which order the State Government has attempted to impose seat sharing quota, which is contrary to the above decision of the Supreme Court (Supra).

4. Be that as it may, learned Additional Advocate General submits that the State is bound to comply with the directions passed in the judgment and order of the Supreme Court in case of **P.A. Inamdar and others (Supra).**

5. If there is any contrary action, particularly in regard to the imposition of seat sharing quota on the petitioner institution, which is

admittedly a private professional educational institute, the same deserves to be quashed.

6. In view of the categorical statement made by the learned Additional Advocate General for the State/respondents, learned counsel for the petitioner submits that nothing survives in this matter. Thus, the petition is accordingly disposed of.

7. Certified copy as per rules, today.

Sd/-
Satish K. Agnihotri
Judge

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